

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2175.) The Governor's Office authorized the notice to proceed through the rulemaking process on June 27, 2011.

[R11-161]

PREAMBLE

1. Sections Affected

R4-24-101
R4-24-107
R4-24-202
R4-24-203
Table 1
R4-24-210
R4-24-211
R4-24-212
R4-24-213

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
New Section
New Section
New Section
New Section

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 32-2003(A)(5) and 32-2030(L)

Implementing statute: A.R.S. §§ 32-2027, 32-2030, and 32-2047

3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 17 A.A.R. 2165, October 28, 2011 (*in this issue*)

4. The agency's contact person who can answer questions about the rulemaking:

Name: Charles D. Brown, Executive Director

Address: Board of Physical Therapy
4205 N. 7th Ave., Suite 208
Phoenix, AZ 85013

Telephone: (602) 274-0236

Fax: (602) 274-1378

E-mail: Charles.brown@ptboard.az.gov

Web site: www.ptboard.az.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The legislature recently amended the Board's organic statutes to require that a business entity that offers physical therapy services to the public register with the Board and required the Board to make rules necessary to enforce the statutes in practice settings not regulated by the Department of Health Services. The Board is making the required rules.

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The legislature also amended the organic statutes to require the Board to administratively suspend a license or certificate that is not timely renewed under the Board's rules. The Board is also making rules to address this requirement.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The primary economic impact results from the legislative decision to require business entities that offer physical therapy services in practice locations not regulated by the Department of Health Services to register with the Board. As a result of this legislative decision, business entities will incur the cost of completing and submitting the registration application and paying the registration fee authorized by the legislature. The cost will be minimal for the business entity and will be offset by an opportunity to profit from offering physical therapy services in Arizona. This cost is a cost of doing business that probably will be passed to the users of physical therapy services.

Previously, a license or certificate lapsed if not renewed timely. The license or certificate will now be administratively suspended. The difference to the licensee or certificate holder will be minimal and easily avoided by renewing timely.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Charles D. Brown, Executive Director

Address: Board of Physical Therapy
4205 N. 7th Ave., Suite 208
Phoenix, AZ 85013

Telephone: (602) 274-0236

Fax: (602) 274-1378

E-mail: Charles.brown@ptboard.az.gov

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10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Tuesday, December 6, 2011

Time: 10:00 a.m.

Location: 4205 N. 7th Ave., Suite 205
Phoenix, AZ 85013

The rulemaking record will close at 5:00 p.m. on December 9, 2011.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to questions (a) through (c):

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit. The legislature required that a business entity register with the Board.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the subject of these rules.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY

ARTICLE 1. GENERAL PROVISIONS

Section

- R4-24-101. Definitions
- R4-24-107. Fees

ARTICLE 2. LICENSING PROVISIONS

Section

- R4-24-202. Reinstatement of License or Certificate
- R4-24-203. Foreign-educated Applicant Requirements
- Table 1. Time-frames (in days)
- R4-24-210. Business Entity Registration; Display of Registration Certificate
- R4-24-211. Renewal of Business Entity Registration
- R4-24-212. Regulation of a Business Entity
- R4-24-213. Business Entity Participation

ARTICLE 1. GENERAL PROVISIONS

R4-24-101. Definitions

In addition to the definitions in A.R.S. § 32-2001, in this Chapter:

1. No change
2. No change
 - a. No change
 - b. No change
3. “Administratively suspend.” as used in A.R.S. § 32-2027, means the Board places a license or certificate issued under A.R.S. Title 32, Chapter 19 and this Chapter on suspended status because the license or certificate was not renewed timely.
- 3-4. “Applicant” means an individual or business entity seeking an initial or renewal license, initial or renewal certificate, initial or renewal registration, interim permit, or reinstatement from the Board.
- ~~4-5.~~ No change
- ~~5-6.~~ No change
- ~~6-7.~~ No change
- ~~7-8.~~ No change
- ~~8-9.~~ No change
- ~~9-10.~~ No change
- ~~10-11.~~ No change
- ~~11-12.~~ No change
- ~~12-13.~~ No change
- ~~13-14.~~ No change
- ~~14-15.~~ No change
- ~~15-16.~~ No change
- ~~16-17.~~ No change
- ~~17-18.~~ No change
 - a. No change
 - b. No change
 - c. No change
- ~~18-19.~~ No change
- ~~19-20.~~ No change
- ~~20-21.~~ No change
- ~~21-22.~~ No change
- ~~22-23.~~ No change
- ~~23-24.~~ No change
24. “Lapsed” means expired because of failure to renew a license or certificate.

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- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 32. No change
- 33. No change
- 34. No change
- 35. No change
- 36. “Suspend” means the Board places a license, certificate, permit, or registration in a status that restricts the holder of the license, certificate, permit, or registration from practicing as a physical therapist, working as a physical therapist assistant, or offering physical therapy services.
- 36-37. No change
- 37-38. No change

R4-24-107. Fees

A. Under the authority provided by A.R.S. §§ 32-2029 and 32-2030, the Board establishes and shall collect the following fees, which are not refundable unless A.R.S. § 41-1077 applies:

- 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. Reinstatement of a ~~lapsed~~ an administratively suspended license, \$100 plus the renewal fee; and
 - e. No change
- 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. Reinstatement of a ~~lapsed~~ an administratively suspended certificate, \$50 plus the renewal fee; and
 - e. No change
- 3. For a business entity:
 - a. Application for an original registration, \$50;
 - b. Renewal, \$50;
 - c. Late fee, \$25; and
 - d. Duplicate registration, \$10.

B. The Board shall accept fees paid by check or money order payable to the Arizona State Board of Physical Therapy.

ARTICLE 2. LICENSING PROVISIONS

R4-24-202. Reinstatement of License or Certificate

- A.** An applicant whose Arizona license or certificate ~~lapsed~~ is administratively suspended for three consecutive years or less after the date of renewal of the license or certificate may apply for reinstatement of the license or certificate by submitting the application in R4-24-208 and the reinstatement fee and renewal fee required in R9-24-107.
- B.** An applicant whose Arizona license or certificate ~~lapsed~~ is administratively suspended for more than three consecutive years after the date of renewal of the license or certificate may apply for reinstatement of the license or certificate by submitting the reinstatement fee and renewal fee in R4-24-107, and:
 - 1. No change
 - 2. No change
 - 3. No change
- C.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change

R4-24-203. Foreign-educated Applicant Requirements

- A.** No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - 3. No change
 - a. No change
 - b. A description of the action or lack of action that led to the limitation on the applicant’s practice as a physical therapist; ~~and~~
 - c. A description of the limitation on the applicant’s practice of physical therapy; ~~and~~
 - d. If the limitation is based on citizenship requirements of the country in which the professional education was obtained, the applicant shall provide the Board with the legal reference for the restriction in the laws of the country in which the professional education was obtained, a copy of the referenced laws, and an English translation of the laws that meets the standards in subsection (A)(2)(b).
 - 4. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - 5. No change
 - 6. No change
- B.** No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change

Table 1. Time-frames (in days)

| Type of Applicant | Type of Approval | Statutory Authority | Overall Time-frame | Administrative Completeness Time-frame | Substantive Review Time-frame |
|--|-------------------------|----------------------------|---------------------------|---|--------------------------------------|
| Original License (R4-24-201) | License | A.R.S. §§ 32-2022; 32-2023 | 75 | 30 | 45 |
| License by Endorsement (R4-24-201) | License by Endorsement | A.R.S. § 32-2026 | 75 | 30 | 45 |
| Physical Therapist Assistant Certificate (R4-24-207) | Certificate | A.R.S. §§ 32-2022; 32-2023 | 75 | 30 | 45 |
| Foreign-educated (R4-24-203) | License | A.R.S. §§ 32-2022; 32-2025 | 75 | 45 | 30 |
| Renewal of license or certificate (R4-24-208) | License or certificate | A.R.S. § 32-2027 | 30 | 15 | 15 |

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|--|---|----------------------------|-----------|-----------|-----------|
| Foreign-educated and Supervised Clinical Practice (R4-24-203, R4-24-204) | Interim Permit and Approval of Facility | A.R.S. § 32-2025 | 60 | 30 | 30 |
| Reinstatement (R4-24-202) | Reinstatement of License or Certificate | A.R.S. § 32-2028 | 30 | 15 | 15 |
| <u>Initial Registration of a Business Entity</u> | <u>Registration</u> | <u>A.R.S. § 32-2030</u> | <u>30</u> | <u>15</u> | <u>15</u> |
| <u>Renewal of Registration of a Business Entity</u> | <u>Registration</u> | <u>A.R.S. § 32-2030(D)</u> | <u>15</u> | <u>7</u> | <u>8</u> |

R4-24-210. Business Entity Registration; Display of Registration Certificate

- A.** A business entity that offers physical therapy services to the public and is not exempt from registration under A.R.S. § 32-2030(H) shall separately register with the Board each location from which physical therapy services are offered in Arizona.
- B.** A business entity shall not offer physical therapy services at a location in Arizona until that location is registered with the Board.
- C.** To register with the Board an Arizona location at which physical therapy services are offered, a business entity shall submit to the Board an application packet that includes the following:
1. An application form, which is available from the Board and requires the following information:
 - a. Name and primary address of the business entity;
 - b. Name, title, address, and telephone number of the manager of the location being registered;
 - c. Name and business address of each officer or director of the business entity;
 - d. Name and license number of each physical therapist who provides physical therapy services at the location being registered;
 - e. Name and certificate number of each physical therapy assistant who works at the location being registered;
 - f. Description of the physical therapy services offered at the location being registered;
 - g. For the business entity, a statement of whether any state, territory, district, or country has ever:
 - i. Refused to issue or renew a registration, permit, license, or other authorization;
 - ii. Accepted surrender of a registration, permit, license, or other authorization in lieu of other disciplinary action; or
 - iii. Suspended, revoked, cancelled, or taken other disciplinary action against a registration, permit, license, or other authorization; and
 - h. Dated and notarized signature of an officer or director attesting that:
 - i. The business entity has a written protocol that meets the standards in A.R.S. § 32-2030(F) for the secure storage, transfer, and access of the physical therapy records of the business entity's patients; and
 - ii. The information provided is true and correct; and
 2. The application fee required under R 4-24-107(A)(3).
- D.** For each location registered, a business entity shall display, in a location accessible to public view, the:
1. Registration certificate and current renewal verification of the business entity,
 2. License and current renewal verification of every physical therapist who provides physical therapy services at the location, and
 3. Certificate and current renewal verification of every physical therapy assistant who works at the location.

R4-24-211. Renewal of Business Entity Registration

- A.** The registration of a business entity expires for each location registered on August 31 of every odd-numbered year.
- B.** A business entity shall separately renew the registration of each location from which the business entity offers physical therapy services in Arizona.
- C.** To renew the registration of an Arizona location from which physical therapy services are offered, a business entity shall submit to the Board an application form, which is available from the Board and requires the following information:
1. Name and primary address of the business entity;
 2. Name, title, address, and telephone number of the manager of the location being registered;
 3. Name and business address of each officer or director of the business entity;
 4. Name and license number of each physical therapist who provides physical therapy services at the location being registered;
 5. Name and certificate number of each physical therapy assistant who works at the location being registered;
 6. Description of the physical therapy services offered at the location being registered;

7. For the business entity, a statement of whether any state, territory, district, or country has ever:
 - a. Refused to issue or renew a registration, permit, license, or other authorization;
 - b. Accepted surrender of a registration, permit, license, or other authorization in lieu of other disciplinary action; or
 - c. Suspended, revoked, cancelled, or taken other disciplinary action against a registration, permit, license, or other authorization;
8. Statement of whether the business entity complies with A.R.S. § 32-2030(F); and
9. Dated and notarized signature of an officer or director attesting that the information provided is true and correct.
- D.** A business entity that timely complies with subsection (C) may continue to offer physical therapy services from the location for which application is made until the Board grants or denies the renewed registration.
- E.** A business entity that fails to comply timely with subsection (C) shall immediately stop offering physical therapy services from the location for which application is not made. To be authorized to offer physical therapy services again from that location, the business entity shall comply with R4-24-210 and pay both the application and late fee specified in R4-24-207(A)(3).

R4-24-212. Regulation of a Business Entity

- A.** A business entity may submit a complaint under A.R.S. § 32-2030 or 32-2045(D) by complying with R4-24-305.
- B.** The Board shall investigate and act on a complaint, whether submitted by or against a business entity, in a manner consistent with R4-24-305, R4-24-306, R4-24-307, R4-24-308, and R4-24-309.
- C.** As provided under A.R.S. § 32-2047, a business entity that violates a requirement of A.R.S. § 32-2030 is subject to disciplinary action by the Board.

R4-24-213. Business Entity Participation

A registered business entity may provide assistance and advice to the Board relating to the regulation of business entities by:

1. Participating in the rulemaking process in a manner described under A.R.S. Title 41, Chapter 6, Article 3;
2. Submitting a petition under A.R.S. § 41-1033 and R4-24-502;
3. Submitting an appeal under A.R.S. § 41-1056.01 and R4-24-502;
4. Submitting a written criticism under R4-24-506; and
5. Attending a Board meeting.